

ZONING RECLASSIFICATION APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

RECEIVED

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HARFORD COUNTY COURT

Case No. 129

Date Filed 9-22-06

Hearing Date _____

Pre-Conf. _____

Receipt _____

Fee _____

Shaded Area For Office Use Only

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Name Marquis Associates, L.L.C. Phone Number (410) 879-2222

Address 1606 Conowingo Road, Bel Air, MD 21014
Street Number Street State Zip Code

Property Owner Same as above. Phone Number _____

Address _____
Street Number Street State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
Street Number Street State Zip Code

Attorney/Representative Robert S. Lynch, Esquire Phone Number (410) 879-2222

Address Stark and Keenan, P.A., 30 Office Street, Bel Air, MD 21014
Street Number Street State Zip Code

Land Description

Address and Location of Property (with nearest intersecting road) 907 Philadelphia Rd., Joppa, MD 21085
Property located just east of the intersection of Philadelphia Road (MD Route 7) and
Mountain Road (MD Route 152).

Subdivision N/A Lot Number N/A Acreage/Lot Size 0.902 acres Election District 1st

Existing Zoning R1 Proposed Zoning B2 Acreage to be Rezoned 0.902 acres

Tax Map No. 65 Grid No. 2B Parcel 598 Deed Reference 3993/710

Critical Area Designation N/A Land Use Plan Designation Industrial/Employment

Present Use and ALL improvements: Single-family residence.

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) Commercial.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

NO. If yes, describe: _____

Estimated Time Requested to Present Case: 2 hours.

Required Information To Be Attached

(Submit three (3) copies of each):

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

(2) A statement as to whether there is an

allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

MARQUIS ASSOCIATES, LLC

Harford County Board of Appeals
Piecemeal Rezoning Application

Master Plan Statement

The proposed B-2 rezoning classification is consistent with the 2004 Harford County Master Plan. The 2004 plan establishes the site within the development envelopment, an area with emphasis on a "mixed-use concept which includes stores, office, residences, schools and recreation spaces all within walking distance of each other." The Master Plan further states that, "the area on Maryland Route 152, south of I-95 is visualized as a high-tech, upscale mixed-use employment center, seeking high paying and clean industries, institutions and businesses." The Master Plan has designated this site as an area for Industrial/Employment. The 2003 Community Plan for Joppa/Joppatowne designates this site as part of the development envelope, allowing for corporate offices. The site is also within an area that comprises a community center. Not only is the proposed B-2 rezoning consistent with the 2004 Harford County Master Plan, it is also consistent with the 2003 Joppa/Joppatowne Community Plan.

Mistake Argument

During the comprehensive rezoning of 1997/8, the subject site retained R1 zoning. At that time the county stated an intention to promote commercial and employment development along the MD 152 corridor between I-95 and US 40 as part of a comprehensive redevelopment process. Since that time, sewer service has been extended to the site and Harford County has developed a comprehensive redevelopment strategy for the US 40 Corridor and for the Edgewood area. Neither redevelopment effort includes the subject site. Instead, the highway dependent commercial development along MD 152 has extended and at least one site in the vicinity that was designated for commercial industrial development has been developed for high density age restricted residential use. The subject site is small and does not lend itself to being part of a more comprehensive redevelopment program because the road configuration in the area and existing land use patterns in the southwest quadrant of the intersection do not lend themselves to a large-scale land assembly. Therefore the premise of the County in the late 1990s, that this site should be retained as residential until it could be included in a redevelopment program, has failed to come to fruition.

Change in Neighborhood

The overall character of the neighborhood has evolved from rural residential to a commercial and employment area with numerous highway oriented uses. In keeping with the Master Plan proposal some new high density residential units are under construction along Route 7 and some new medium density residential development is located in the western interior of the neighborhood.

MD 152, which runs along the eastern side of the property, is also lined with commercial development beginning at I-95 and extending across US 40. A new car wash has been constructed on MD 152 across from the Clayton Road intersection. Just north of the railroad tracks on MD 152 there is a new 3-car garage that is being sold as B3 commercial. There are other various new commercial buildings and parking lots that have been developed along MD 152.

In the established neighbor for the site, numerous changes have been occurred sine 1998. There are three new subdivisions in the area; one off of Clayton Road, one near the I-95 and MD 152 crossing, and one northwest of the site. There have been at least six sites throughout the neighborhood that have experienced either new or expanded commercial and institutional building/parking areas since 1998. Significant development has occurred along the MD 152 corridor south of I-95 to U.S. 40.

- (4) All surrounding zoning.
- (5) Proposed public or private capital improvements.
- (e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions.
- (f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.
- (g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.
- (h) Private restrictions or covenants, if any, applicable to subject parcel.
- (i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted.
- (j) Availability of public water and sewer.

Additional Information as Required by the Department of Planning and Zoning

- (a) Existing and proposed libraries, parks, schools, fire and police departments.
- (b) Demonstration of compatibility of the proposed use with existing and proposed development for the area.
- (c) Traffic impact study.
- (d) Economic and Environmental impact studies.
- (e) Estimated population for existing and proposed petitioned area and neighborhood, as defined.
- (f) Soils analysis.
- (g) Aerial photograph.

CASE 124 MAP 65 TYPE Rezoning

ELECTION DISTRICT 01 LOCATION 907 Philadelphia Road, Joppa 21085

BY Marquis Associates, LLC, 1606 Conowingo Road, Bel Air 21014

Appealed because a rezoning pursuant to Section 267-12A of the Harford County Code

to rezone .902 acres from a R1 District to B2 District requires approval by the

Board.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information, and belief.

Marquis Associates, LLC

Stephen E. Quick
Signature of Applicant/Owner Date

Steve Quick, Managing Member

Elizabeth Thompson
Witness Date

Signature of Contract Purchaser/Owner Date

Witness Date

[Signature]
Signature of Attorney Representative Date

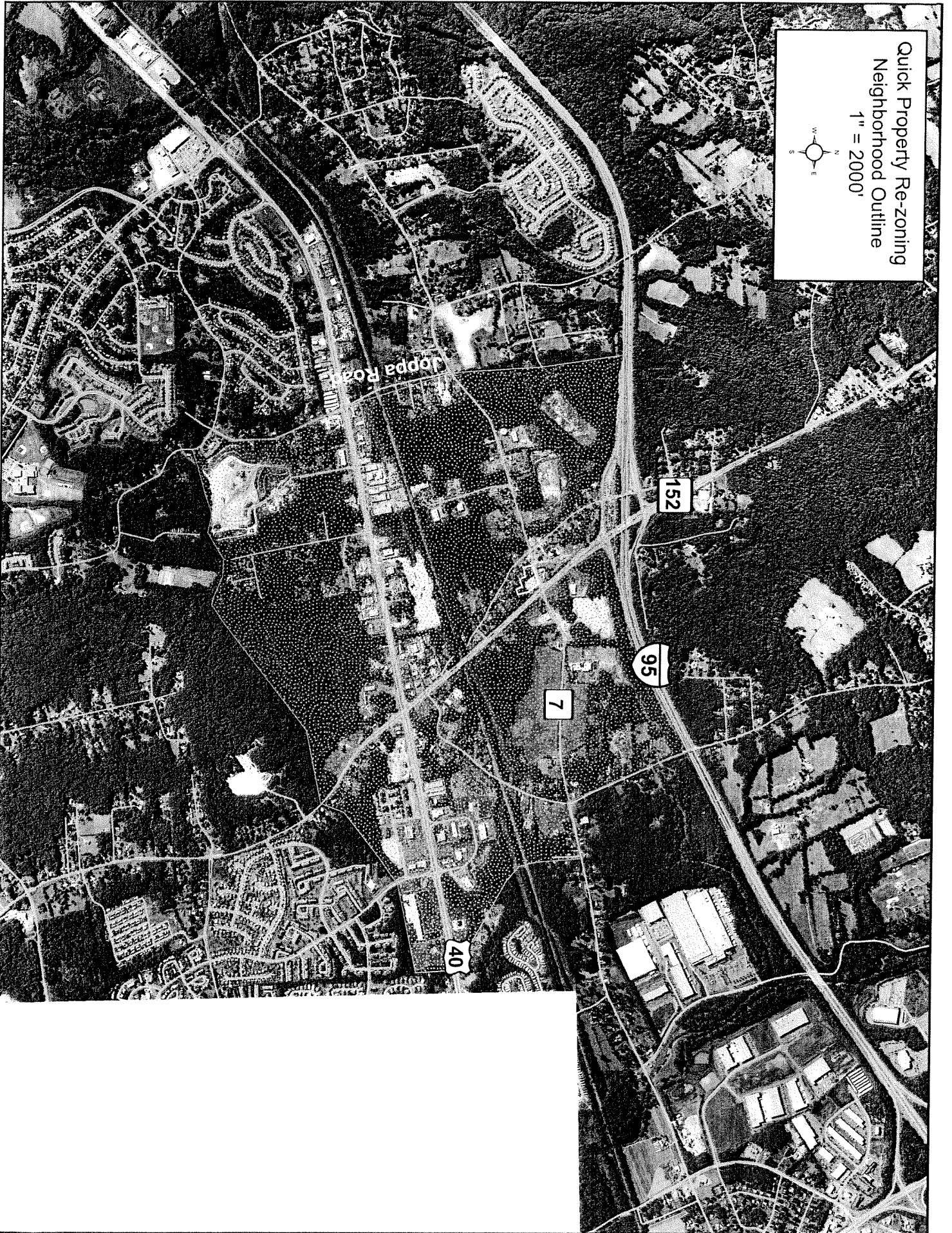
Elizabeth Thompson
Witness Date

[Signature] 1/4/16
Director of Planning and Zoning Date

Zoning Staff Date

Quick Property Re-zoning
Neighborhood Outline

1" = 2000'



DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



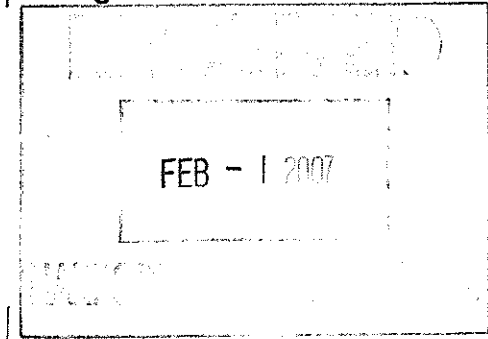
C. PETE GUTWALD
DIRECTOR OF PLANNING AND ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

January 30, 2007

STAFF REPORT



BOARD OF APPEALS CASE NO. 124

APPLICANT/OWNER: Marquis Associates, L.L.C.
1606 Conowingo Road, Bel Air, Maryland 21014

REPRESENTATIVE: Robert S. Lynch, Esquire
Stark and Keenan, P.A.
30 Office Street, Bel Air, Maryland 21014

LOCATION: 907 Philadelphia Road, Joppa, Maryland 21085
Tax Map: 65 / Grid: 2B / Parcel: 598
Election District: First (1)

ACREAGE: 0.902 acres

ACREAGE TO BE REZONED: 0.902 acres

EXISTING ZONING: R1/Urban Residential District

PROPOSED ZONING: B2/Community Business District

DATE FILED: September 26, 2006

HEARING DATE: March 5, 2007

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

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APPLICANT'S REQUEST and JUSTIFICATION:

Request:

The Applicants are requesting to rezone 0.902 acres from R1/Urban Residential District to B2/Community Business District.

Justification:

See ATTACHMENT 1.

LAND USE and ZONING ANALYSIS:

Location and Description of Neighborhood:

The Applicant's property is located on the southwest corner of Philadelphia Road (MD Route 7) and Mountain Road (MD Route 152). A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The Applicant has submitted a map delineating their suggested neighborhood with the application (Attachment 4).

The Department disagrees with the Applicant's suggested neighborhood and defines the neighborhood as all those properties between the CSX Railroad and Interstate 95; extending approximately 1,000-feet east of the intersection of MD Route 7 and 152, and approximately 2,000-feet west of the intersection (Attachment 5).

Land Use – Master Plan:

The subject property is located within the Development Envelope on the southwest corner of the intersection of MD Route 7 and MD Route 152. The primary Land Use designation is Industrial/Employment. The Natural Features Map reflects Stream Systems. The subject property is designated as Industrial/Employment which is defined by the 2004 Master Plan as:

***Industrial/Employment** – Areas of concentrated manufacturing, distribution, technical, research, office, and other activities generally located along major transportation corridors.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 6 and 7).

Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area contains a mix of uses including single-family dwellings, condominiums, institutional uses, and

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commercial/industrial uses. Some of the commercial uses in the area include small individual retail stores, a used car dealer, and a gas station/convenience store. The Joppa-Magnolia Fire Station is located to the north of the subject property. ATC Tower Services is located on the east side of MD Route 7 and is a construction service operation. Auston LLC operates an approved Solid Waste Transfer Station at the end of Pauls Lane. Coleman-Plecker's World of Golf was formerly located to the northwest of the subject property and consisted of a driving range and miniature golf.

The subject property is irregularly shaped, contains 0.902 acres and has approximately 215-feet of road frontage along MD Route 7. The property is currently improved with a single-family frame dwelling, a one-car detached garage to the rear of the dwelling, and a storage building located to the west of the garage. The topography within this area ranges from rolling to steep, especially near the stream valleys. The subject property is moderately sloping from the northwest corner of the property to the southeast corner of the property. The majority of the property is lawn with several large mature trees. Enclosed with the report are a copy of the topography map and the aerial photograph (Attachments 8 and 9).

This rezoning request accompanies another rezoning request (Case No. 125) for the adjacent parcel to the east. There are two parcels that abut the subject property to the west that are improved with former single-family dwellings which have been converted to commercial use. A tattoo studio and motorcycle parts and accessories store are tenants within the building on the southeast corner of MD Route 7 and Old Mountain Road. The second parcel that abuts the subject property to the west has frontage on Old Mountain Road and the building on the property houses a professional service use. A High's Convenience Store with gas pumps is located directly across MD Route 7 from the subject property. The Nor-Mar Restaurant and Lounge was formerly located on the northeast corner of MD Route 7 and Old Mountain Road.

Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 10 and 11).

Zoning and Zoning History:

Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning in the area is R1/Urban Residential District. Commercial zoning in the area includes B1/Neighborhood Business District, B3/General Business District and CI/Commercial Industrial District. The subject property is zoned R1/Urban Residential District as shown on the enclosed copy of the zoning map (Attachment 12).

The Applicant has provided a chart showing three previous rezoning requests in the area that were reviewed by the Board of Appeals in 1998. Case No. 081 and Case No. 083 were requests to rezone two parcels from R1 to B3 that are located on the south side of US Route 40 (Pulaski

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Highway). The request under Case No. 81 was approved and the request under Case No. 83 was withdrawn by the applicant in those cases. It should be noted that that parcel that was the subject of Case No. 81 is located outside of the neighborhood defined by the Department.

Case No. 82 was also a request to rezone a parcel from R1 to B3. This parcel was located on the west side of MD Route 152 and is within the neighborhood defined in this report. The Hearing Examiner denied the requested rezoning. Enclosed with the report is a copy of the Applicant's chart and the Hearing Examiner's decision for Case No. 082 (Attachments 13 and 14)

Zoning History:

1957 Comprehensive Zoning Review: In 1957 the subject property was zoned R2/Urban Residential District (Attachment 15).

1982 Comprehensive Zoning Review: During the 1982 Comprehensive Zoning Review the subject property was rezoned from R2/Urban Residential District to R1/Urban Residential District (Attachment 16).

1989 Comprehensive Zoning Review: In 1989 the subject property remained R1/Urban Residential District (Attachment 17).

1997 Comprehensive Zoning Review: In 1997 the subject property remained R1/Urban Residential District (Attachment 18).

2005 Comprehensive Zoning Review: The Applicant requested that the property be rezoned to B2/Community Business District during the 2005 review. The County Council voted to change the property to RO/Residential Office District. However, the County Executive vetoed the Legislation and the County Council did not override the veto. Therefore, the zoning assigned to the property in 1997 remains in effect. Attached is a copy of the 2005 zoning log (Attachment 19).

BASIS FOR INDIVIDUAL REZONING REQUEST:

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

Substantial Change Argument:

The Applicant states that "The overall character of the neighborhood has evolved from rural residential to a commercial and employment area with numerous highway oriented uses. In keeping with the Master Plan proposal some new high density residential units are under

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construction along Route 7 and some new medium density residential development is located in the western interior of the neighborhood.”

“MD 152, which runs along the eastern side of the property, is also lined with commercial development beginning at I-95 and extending across US 40. A new car wash has been constructed on MD 152 across from the Clayton Road intersection. Just north of the railroad tracks on MD 152 there is a new 3-car garage that is being sold as B3 commercial. There are other various new commercial buildings and parking lots that have been developed along MD 152.”

“In the established neighborhood for the site, numerous changes have occurred since 1998. There are three new subdivisions in the area. One is located off of Clayton Road, one near the I-95 and MD 152 crossing and one northwest of the site. There have been at least six sites throughout the neighborhood that have experienced either or expanded commercial and institutional building/parking areas since 1998. Significant development has occurred along the MD 152 corridor south of I-95 to US 40.”

The Department finds that there has not been a substantial change in the neighborhood. The Applicant has described various types of residential and commercial development that has occurred in the area since the last Comprehensive Rezoning. The development which has occurred in the area is consistent with the existing zoning. While there has been substantial commercial development along US Route 40 since the 1997 Comprehensive Rezoning, these properties also have been developed in accordance with the zoning assigned to them during that Comprehensive Rezoning review. It is also important to note that the US Route 40 corridor described by the Applicant is not within the neighborhood defined by the Department.

Mistake:

The Applicant states that “During the Comprehensive Rezoning of 1997/98, the subject site retained R1 zoning. At that time the county stated an intention to promote commercial and employment development along the MD 152 corridor between I-95 and US 40 as part of a comprehensive redevelopment process. Since that time, sewer service has been extended to the site and Harford County has developed a comprehensive redevelopment strategy for the US 40 corridor and for the Edgewood area. Neither redevelopment effort includes the subject site. Instead, the highway dependent commercial development along MD 152 has extended and at least one site in the vicinity that was designated for commercial industrial development has been developed for high density age restricted residential use. The subject site is small and does not lend itself to being part of a more comprehensive redevelopment program because the road configuration in the area and existing land use patterns in the southwest quadrant of the intersection do not lend themselves to a large scale land assembly. Therefore, the premise of the County in the late 1990’s that this site should be retained as residential until it could be included in a redevelopment program, has failed to come to fruition.”

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The subject property was designated as Industrial/Employment in the 1996 Land Use Plan and remained designated as Industrial/Employment in the 2004 Land Use Plan. The County Council knew that the subject property was located within a designated Industrial/Employment area during the 1997 Comprehensive Rezoning Review. The property owner did not request rezoning during the 1997 Comprehensive Rezoning Review, nor did the County Council choose to rezone the property from its R1/Urban Residential District zoning.

The Applicant states that Harford County has developed a comprehensive redevelopment strategy for the US Route 40 corridor and for the Edgewood area. It is true that the County has developed initiatives in these areas to promote revitalization and quality redevelopment. The U.S. Route 40 Commercial Revitalization District (CRD) is generally all those properties situated between the CSX Railroad and US Route 40 and those parcels along the south side of U.S. Route 40. It is important to note that the neighborhood defined by the Department is not within the limits of the CRD.

The Applicant requested that the subject property be rezoned to B2/Community Business District in 2005; however, the County Council felt that RO/Residential Office District zoning was more appropriate. The County Council subsequently voted to change the subject property from R1/Residential Office District to RO/Residential Office District. It is evident from the Council's decision to rezone the property to RO/Residential Office District that they desired to have more control over the specific type of development on this property. That decision supports the County's priority to encourage redevelopment and revitalization within the CRD.

Therefore, the Department disagrees with the Applicant's justification that the County made a mistake during the 1997 Comprehensive Rezoning review by allowing the subject property to retain its R1/Urban Residential District Zoning.

ANALYSIS OF INDIVIDUAL ZONING REQUEST:

Conformance with the Master Plan and Land Use Element Plan:

The proposed rezoning is in conformance with the intent of the 2004 Master Plan. The Land Use Map shows the area designated as Industrial/Employment.

Impact on Requested Zoning:

The proposed rezoning would not adversely impact the neighborhood.

COMMENTS FROM ADVISORY GROUPS:

Historic Preservation Issues:

There are no historic sites on the property. No preservation easements impact the property.

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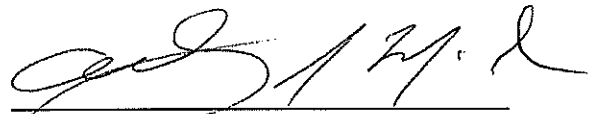
Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their meeting on January 10, 2007. The PAB voted 5-0 to recommend that the requested change in zoning be denied (Attachment 20).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request to rezone the subject property from R1/Urban Residential District to B2/Community Business District be denied.


Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/dm